

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY  
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JOSE PEÑA,

Movant,

- against -

UNITED STATES OF AMERICA,

Respondent.

**24 Civ. 1266 (VM)**  
**09 Cr. 341 (VM)**

**ORDER**

**VICTOR MARRERO, United States District Judge.**

Jose Peña ("Peña"), defendant in No. 09 Cr. 341, moves<sup>1</sup> pro se for reconsideration of the Court's Decision and Order (the "D&O") dated May 14, 2024,<sup>2</sup> which denied a 28 U.S.C. § 2255 ("Section 2255") motion he had previously filed. Peña's motion for reconsideration is hereby **DENIED** for the reasons below.

Reconsideration of a previous Court order is an "extraordinary remedy to be employed sparingly in the interests of finality and conservation of scarce judicial resources." Sikhs for Just. v. Nath, 893 F. Supp. 2d 598, 605 (S.D.N.Y. 2012) (quoting Montanile v. NBC, 216 F. Supp. 2d 341, 342 (S.D.N.Y. 2002)). "Accordingly, the standard of review applicable to such a motion is 'strict.'" Id. (quoting

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<sup>1</sup> The motion is filed at Docket No. 481 in No. 09 Cr. 341 and Docket No. 10 in No. 24 Civ. 1266.

<sup>2</sup> The D&O is filed at Docket No. 480 in No. 09 Cr. 341 and Docket No. 9 in No. 24 Civ. 1266.

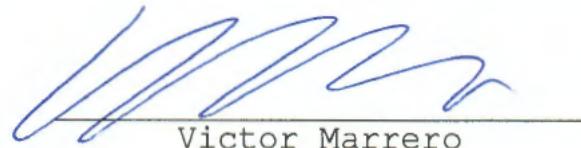
Shrader v. CSX Transp., Inc., 70 F.3d 255, 257 (2d Cir. 1995)). "The burden is on the movant to demonstrate that the Court overlooked controlling decisions or material facts that were before it on the original motion, and that might materially have influenced its earlier decision." Id. (citation and quotation marks omitted). A party seeking consideration cannot repeat "arguments already briefed, considered and decided" or "advance new facts, issues or arguments not previously presented to the Court." Id. (quoting Schonberger v. Serchuk, 742 F. Supp. 108, 119 (S.D.N.Y. 1990)).

Construing Peña's pro se motion for reconsideration "liberally" and interpreting it "to raise the strongest arguments that [it] suggest[s]," McPherson v. Coombe, 174 F.3d 276, 280 (2d Cir. 1999) (quoting Burgos v. Hopkins, 14 F.3d 787, 790 (2d Cir. 1994)), the Court finds that Peña has fallen far short of demonstrating that the Court overlooked controlling decisions or material facts that were before it on Peña's original Section 2255 motion and that might materially have influenced the D&O. See Nath, 893 F. Supp. 2d at 605. The Court further finds that Peña in large part has merely repeated arguments already considered and rejected by the Court in the D&O. See id. Accordingly, the Court denies the motion for reconsideration.

The Clerk of Court is hereby respectfully **ORDERED** to mail a copy of this Order to Jose Peña, Register No. 90703-054, USP Coleman I, U.S. Penitentiary, P.O. Box 1033, Coleman, FL 33521.

**SO ORDERED.**

Dated: 21 June 2024  
New York, New York



Victor Marrero  
U.S.D.J.